

(iii) If the Secretary, at the request of the Board or on his or her own, determines that it would be consistent with the provisions of the Act, the Secretary may appoint an additional importer to the Board to represent a region not otherwise specified in paragraphs (b)(2)(i) and (ii) of this section. Nominees would be solicited as prescribed in § 1217.41(b), or in the case of the Secretary acting on his or her own will be handled by the Secretary, and all the names of eligible candidates would be submitted to the Secretary for consideration. Such nominees must certify that the majority of their softwood lumber is imported from such region. In addition, representation for the region not otherwise specified in paragraphs (b)(2)(i) and (ii) of this section would be subject to the Board review and reapportionment provided for in paragraph (c) of this section.

(c) In each five-year period, but not more frequently than once in each three-year period, the Board shall:

(1) Review, based on a three-year average, the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States; and

(2) If warranted, recommend to the Secretary the reapportionment of the Board membership to reflect changes in the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. The destination of volumes between regions also shall be considered. The number of Board members may also be changed. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

**§ 1217.41 Nominations and appointments.**

(a) Initial nominations will be submitted to the Secretary by the Blue Ribbon Commission. Before considering any nominations, the BRC shall publicize the nomination process, using trade press or other means it deems appropriate, and shall outreach to all known manufacturers for the U.S. mar-

ket who domestically manufacture and/or import 15 million board feet or more of softwood lumber per fiscal year in order to generate nominees that reflect the different operations within the softwood lumber industry. The BRC may use regional caucuses, mail or other methods to elicit potential nominees. The BRC shall submit the nominations to the Secretary and recommend two nominees for each Board position specified in paragraphs (b)(1), (b)(2)(i) and (b)(2)(ii) of § 1217.40. All nominees solicited pursuant to § 1217.40(b)(2)(iii) shall be submitted to the Secretary through the BRC. From the nominations submitted by the BRC, the Secretary shall select the members of the Board.

(b) Subsequent nominations shall be conducted as follows:

(1) The Board shall outreach to all segments of the softwood lumber industry. Softwood lumber domestic manufacturers and importers may submit nominations to the Board. Subsequent nominees must domestically manufacture and/or import 15 million board feet or more of softwood lumber per fiscal year;

(2) Domestic manufacturers and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board;

(3) Nominees that are both a domestic manufacturer and an importer may seek nomination to the Board and vote in the nomination process as either a domestic manufacturer or an importer, but not both: *Provided*, That, such nominees who domestically manufacture the majority of their softwood lumber may seek nomination and vote as a domestic manufacturer, and such nominees who import the majority of their softwood lumber may seek nomination and vote as an importer. Such nominees must domestically manufacture and import 15 million board feet or more of softwood lumber per fiscal year;

(4) Domestic manufacturers who manufacture softwood lumber in more than one region may seek nomination only in the region in which they manufacture the majority of their softwood lumber. The names of domestic manufacturer nominees shall be placed on a

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ballot by region. The ballots along with the background statements shall be mailed to domestic manufacturers in each respective region for a vote. Domestic manufacturers who manufacture softwood lumber in more than one region may only vote in the region in which they manufacture the majority of their softwood lumber. The votes shall be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(5) Importer nominees shall certify that the majority of their softwood lumber is imported from the respective region for which they are seeking to represent on the Board and shall provide documentation to verify this if requested by the Board. The names of importer nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to importers in each respective region for a vote. Importers who import softwood lumber from more than one region may only vote in the region from which they import the majority of their softwood lumber. The votes shall be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary.

(6) The Board must submit nominations to the Secretary at least six months before the new Board term begins. From the nominations submitted by the Board, the Secretary shall select the members of the Board;

(7) No two members shall be employed by a single corporation, company, partnership, or any other legal entity; and

(8) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modifications shall be implemented through rulemaking by the Secretary.

### **§ 1217.42 Term of office.**

(a) With the exception of the initial Board, each Board member will serve a three-year term or until the Secretary selects his or her successor. Each term

of office shall begin on January 1 and end on December 31. No member may serve more than two consecutive terms, excluding any term of office less than three years.

(b) For the initial board, the terms of Board members shall be staggered for two, three, and four years. Determination of which of the initial members shall serve a term of two, three, or four years shall be recommended to the Secretary by the Blue Ribbon Commission.

### **§ 1217.43 Removal and vacancies.**

(a) In the event that any member of the Board ceases to work for or be affiliated with a domestic manufacturer or importer or ceases to do business in the region he or she represents, such position shall become vacant.

(b) The Board may recommend to the Secretary that a member be removed from office if the member consistently refuses to perform his or her duties or engages in dishonest acts or willful misconduct. The Secretary may remove the member if he or she finds that the Board's recommendation shows adequate cause. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, including the failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

(c) If a position becomes vacant, nominations to fill the vacancy will be conducted using the nominations process set forth in this Order. A vacancy will not be required to be filled if the unexpired term is less than six months.

### **§ 1217.44 Procedure.**

(a) A majority of the Board members (10) will constitute a quorum so long as at least three of the members present are importer members and six of the members present are domestic manufacturers. If participation by telephone or other means is permitted, members participating by such means shall count as present in determining quorum or other voting requirements set forth in this section.